

NEW CALIFORNIA HOA LEGISLATION EFFECTIVE IN 2012

Below you will find legislative digests of four new laws that will be effective January 1, 2012. These were bills that were passed and signed by the Governor during 2011. For more information, you can go to the Legislature's website <http://www.leginfo.ca.gov/bilinfo.html> and enter the bill number. You can view the actual bill, analyses, votes, etc.

SB 150 – Lease Limitation Restrictions

This bill would prohibit the owner of a separate interest in a common interest development from being subject to a provision in a governing document, or a provision in an amendment to a governing document, that prohibits the rental or leasing of all or any of the separate interests in that common interest development to a renter, lessee, or tenant unless that governing document, or amendment thereto, was effective prior to the date the owner acquired title to his or her separate interest. The bill would also authorize that owner to expressly consent to be subject to a governing document or amendment thereto with that specified prohibition.

This bill would, in addition, require the owner of a separate interest to provide a statement describing any provision in the governing documents that prohibits the rental or leasing of any of the separate interests in the common interest development to a renter, lessee, or tenant, and its applicability, if there is such a provision.

AB 771, Common interest developments: requests for documents: fees

This bill would require that the seller also provide a copy of specified minutes of the meetings of the association's board of directors, if requested by the prospective purchaser. This bill would also require an association to provide to the seller a written or electronic estimate of the fees that will be assessed to provide the specified documents. The bill would permit the association to collect a reasonable fee based on the association's actual cost for procuring, preparing, reproducing, and delivering the requested documents and would prohibit charging additional fees for electronic delivery of documents. The bill would permit the association to contract with any person or entity to provide the documents on behalf of the association. The bill would require the owner of a separate interest to also provide a form for billing disclosures, as specified, to a prospective purchaser, and would also require the association to provide this form to a recipient authorized by the owner of the separate interest.

SB 563, Common interest developments: meetings

This bill would require notice for a meeting that will be held solely in executive session to be given to members of the association at least 2 days prior to the

meeting, except as specified. The bill would provide that, if a member consents, notice may be given to the member electronically, and would also delete provisions that generally allow the board of directors to consider any proper matter at a meeting even if it has not been noticed as an action item for the meeting. This bill would permit meetings of the board of directors of a common interest development association to be conducted by teleconference, as specified, by revising the definition of a meeting for these purposes. The bill would require that a teleconference meeting be conducted in a manner that protects the rights of members of the association and otherwise complies with other requirements governing common interest developments. The bill would also require that the notice of a teleconference meeting identify at least one physical location so that members of the association may attend and would require that at least one member of the board of directors be present at that location. The bill would prohibit the board of directors from taking action on any item of business outside of a meeting. The bill would prohibit the board from conducting a meeting via a series of electronic transmissions, such as electronic mail, except to conduct an emergency meeting, as specified. The bill would establish a definition of an item of business.

2) Existing law requires an association to make available specified association records, but excludes from those requirements agendas for meetings of the board of directors that are held in executive session. This bill would delete this exclusion, and would therefore require an association to make available agendas for meetings held in executive session.

SB 209, Common interest developments: electric vehicle charging stations

This bill would provide that any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a common interest development, or any provision of the governing documents of a common interest development, that effectively prohibits or restricts the installation or use of an electrical vehicle charging station is void and unenforceable. The bill would authorize an association, as defined, to impose reasonable restrictions on those stations, as specified, and would impose requirements with respect to an association's approval process for those stations. If the station is to be placed in a common interest area or an exclusive use common area, the homeowner would be responsible for various costs associated with maintaining and repairing the station, as well as costs for damage to common areas and adjacent units resulting from installation and maintenance of the station. The bill would impose other responsibilities on the homeowner, including maintaining an umbrella liability coverage policy of \$1,000,000 that names the common interest development as an additional insured. An association that violates the bill's provisions would be liable for damages and a civil penalty, as specified.